

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NORTH DAKOTA  
SOUTHWESTERN DIVISION**

|   |   |                            |
|---|---|----------------------------|
| Carolyn T. Merbach,                     | ) |                            |
|   | ) |                            |
| Plaintiff,                              | ) | <b>ORDER FOR DISMISSAL</b> |
|   | ) |                            |
| vs.                                     | ) |                            |
|   | ) |                            |
| North Dakota State Water Commission,    | ) |                            |
| John Britnell, HR Manager, and Todd     | ) |                            |
| Sando, Appointed Authority AG's Office, | ) |                            |
|   | ) | Case No. 1:13-cv-030       |
| Defendants.                             | ) |                            |

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On May 22, 2013, the court issued an order in which it concluded that *pro se* plaintiff Carolyn T. Merbach's claims against the state of North Dakota and state employees in their official capacities for money damages under the Americans with Disabilities Act were barred by the Eleventh Amendment. The court instructed plaintiff to file a proposed amended complaint by no later than June 30, 2013, if plaintiff intended to assert claims in addition to those the court determined were barred and stated that if plaintiff failed to do so, the action would be dismissed pursuant to 28 U.S.C. § 1915(e)(2). Plaintiff has not filed a proposed amended complaint. Therefore, in accordance with the court's prior order, the action is **DISMISSED** without prejudice.

**IT IS SO ORDERED.**

Dated this 12th day of July, 2013.

/s/ Charles S. Miller, Jr.  
Charles S. Miller, Jr., Magistrate Judge  
United States District Court